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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,371	09/30/2003	Robert Beckstrom	6065/88622	5983
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EXAMINER				
DAYE, CHELSEA L				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/675,371

Applicant(s)

BECKSTROM ET AL.

Examiner

CHELCIE DAYE

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed April 30, 2008.
2. Claims 1-20 are presented. No claims added and none cancelled.
3. Claims 1-20 are pending.
4. Applicant's arguments filed April 30, 2008, have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998.**

Regarding Claims 1 and 20, Fedorov discloses a method for improving transactions in a communication system, comprising:

monitoring a data session (column 5, lines 26-29, Fedorov) between first and second parties (column 7, lines 56-59, Fedorov)¹ in an established transaction in the communication system (column 10, lines 48-55, Fedorov); and conferencing a third party into the transaction as an additional participant in the transaction in response to the monitoring of the data session between the first and second parties (column 2, lines 34-39 and column 8, lines 27-35, Fedorov). However, Fedorov is silent with respect to the steps being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). Fedorov and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

¹ Examiner Notes: The agent and the customer represent the first and second parties.

Regarding Claim 2, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is at least one of a virtual party and an automated input (column 5, lines 37-50, Shaffer).

Regarding Claim 3, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is engaged to review at least one of text messages and emails before they are sent (column 8, lines 8-20 and column 11, lines 21-24, Fedorov).

Regarding Claim 4, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party engages in a background of the data session of at least one of the first and second parties (column 7, lines 50-54, Fedorov)².

Regarding Claim 5, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party engages in a foreground of the data session (column 8, line 29, Fedorov) to reduce stress levels of at least one of the first and second parties (columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

² Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

Regarding Claim 6, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)³.

Regarding Claim 7, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)⁴.

Regarding Claim 8, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claim 9, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

³ Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

⁴ Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Miloslavsky (US Patent No. 6,021,428) filed January 22, 1998.

Regarding Claim 10, the combination of Fedorov in view of Shaffer, disclose wherein detection of problematic phrases within the content engages the third party (column 5, lines 29-36, Shaffer). However, the combination of Fedorov in view of Shaffer, are silent with respect to the automatic monitoring comprising automatic inspection of content of data messages, text messages, and emails. On the other hand, Miloslavsky discloses automatic inspection of content of data messages, text messages, and emails (column 36, lines 9-36, Miloslavsky). Federov, Shaffer, and Miloslavsky are analogous art because they are from the same field of endeavor of a telephone call-in-center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Miloslavsky's teachings into the Federov and Shaffer system. A skilled artisan would have been motivated to combine as suggested by Miloslavsky at columns 1-2, lines 58-67 and 1-2, respectively, in order to introduce the Internet together with advances in computer hardware and software to lead to a new multi-media telephone system, known as Internet protocol network telephony (IPNT). As a result, the use of the IPNT allows for the improved handling of more calls faster and the improvement of other services in every way.

8. Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000.

Regarding Claim 11, Fedorov discloses an apparatus for improving transactions in a communication system, comprising:

means for monitoring a data sessions including at least one of data messages and text messages between first and second parties in an on-going transaction in the communication system; and

means for engaging a third party into the on-going transaction as an additional participant in the transaction in response to the automatic monitoring of the data session between the first and second parties. However, Fedorov is silent with respect to the monitoring and engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). Fedorov and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a

result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed. Also, Federov and Shaffer are silent with respect to the data session including at least one of data messages and text messages. On the other hand, Eilbacher discloses data sessions including at least one of data messages and text messages (column 6, lines 2-4 and 28-31, Eilbacher). Fedorov, Shaffer, and Eilbacher are analogous art because they are from the same field of contact center communications. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Eilbacher's teachings into the Fedorov and Shaffer system. A skilled artisan would have been motivated to combine as a way of not limited the accessibility and functions of the system. As a result, broadening the possible communication mechanisms.

Regarding Claim 12, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party is a virtual party (column 5, lines 37-50, Shaffer).

Regarding Claim 13, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein one of the parties in the transaction is a customer, wherein the monitoring comprises automatically detecting a keyword use by the customer indicating that the customer desires to

deal with a supervisor and wherein the means for automatically engaging engages the supervisor is response thereto (column 11, lines 26-50, Eilbacher).

Regarding Claim 14, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party engages in a background of the data session of at least one of the first and second parties (column 7, lines 50-54, Fedorov)⁵.

Regarding Claim 15, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party engages in a foreground of the data session (column 8, line 29, Fedorov) to reduce stress levels of at least one of the first and second parties (columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

Regarding Claim 16, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)⁶.

⁵ Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

⁶ Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

Regarding Claim 17, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)⁷.

Regarding Claim 18, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claim 19, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

Response to Arguments

Applicant argues, “The Office Action concedes that Federov does not teach data sessions, automatic monitoring, and automatic engaging”.

⁷ Examiner Notes: “To participate in the calls” corresponds to communicate with both parties.

Examiner respectfully disagrees. While Federov does teach monitoring and conferencing (i.e. engaging), it is a fact that Federov is silent with respect to those features being performed automatically. However, the office action nor the examiner conceded that Federov does not teach data sessions. As a matter of fact, Federov does teach data sessions as discussed at col.7, lines 7-21, wherein the system implements data sharing capabilities along with a data-conferencing environment.

Applicant argues, Shaffer does not teach automatically engaging or conferencing, nor does it disclose automatic monitoring.

Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, the primary reference Federov was used for the disclosure of "monitoring a data session" and "conferencing a third party" (see the office action above). The secondary reference Shaffer was incorporated into the Federov reference for the teaching of automation. Shaffer teaches "*the capability to automatically monitor ACD calls for voice data patterns associated with poor agent performance enables a supervisor to efficiently monitor a large number of ACD agents*" (see col.4, lines 21-26). The above excerpt clearly teaches the step of monitoring being performed automatically and it would be obvious to one of ordinary skill within the art to understand if the processes of both Federov and Shaffer are combined that since the process of

monitoring is performed automatically, thus so can the process of conferencing (i.e., engaging).

Applicant argues, Miloslavsky merely establishes that incoming e-mails and routing of these to an agent in a call center was disclosed but does not teach that e-mails can be substituted for voice communications in an audio listening system.

Examiner respectfully disagrees. As the applicant has admitted to as well as the clear disclosure by the reference Miloslavsky does teach the usage of data messages, text messages, and emails. However, the applicant believes that Miloslavsky does not teach the substitution of emails for voice communications. The purpose of Miloslavsky is the enhancement/improvement of telephony systems and services, including improvements for video calls and conferencing. Miloslavsky discusses the use and distribution of emails within the call center to agents for better services (see col.2, lines 1-38). As such, the combination of the references is in fact useful and combinable.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571)272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4146080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2161

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
Technology Center 2100
July 23, 2008

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161